IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

TUESDAY, THE 25TH SEPTEMBER 2007 / 3RD ASWINA 1929

Bail Appl..No. 5766 of 2007()

C.R.NO.32/07 OF KUNNAMANGALAM EXCISE RANGE

: PETITIONER/ACCUSED

PADMINI, W/O. RADHAKRISHNAN,
KAMBALATH PURAYIL HOUSE, POST NAIRKUZHI,
VIA REC, KOZHIKODE.

BY ADV. SRI.P.V.KUNHIKRISHNAN

RESPONDENTS: COMPLAINANT & STATE

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1. EXCISE INSPECTOR OF POLICE,
KUNNAMANGALAM, KOZHIKODE.

2. STATE OF KERALA, REPRESENTED BY
PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.S.U.NAZAR

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 25/09/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J

B.A.No.5766 of 2007

Dated this the 25th day of September, 2007

ORDER

Application for anticipatory bail. The petitioner, a woman, faces allegations under the Kerala Abkari Act. She was allegedly found to be in possession of 4 litres of arrack on 18.07.05. She was not arrested as the detecting party did not consist of any woman official. The petitioner apprehends imminent arrest. The petitioner is the accused in one more crime under the Kerala Abkari Act, submits the learned Public Prosecutor .

2. The learned counsel for the petitioner submits that the petitioner is absolutely innocent. It is prayed that directions under Section 438 Cr.P.C may be issued in favour of the petitioner.

3. The application is opposed by the learned Public Prosecutor . The learned Public Prosecutor points out that there are no circumstances justifying the invocation of the discretion under Section 438 Cr.P.C. The petitioner may be directed to surrender before the learned Magistrate and seek regular bail in the normal course, submits the learned Public Prosecutor .

4. Having considered all the relevant inputs, I find merit in the objection by the learned Public Prosecutor. I am unable to perceive any features in this case which would justify the invocation of the extraordinary equitable discretion under Section 438 Cr.P.C. I agree with the learned Public Prosecutor that the petitioner must surrender before the learned Magistrate and seek regular bail in the ordinary course.

5. This B.A is, in these circumstances, dismissed, but with the specific observation that if the petitioner appears before the learned Magistrate and applies for bail after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits and expeditiously.

(R.BASANT, JUDGE)

rtr/-